

Relationship between the Government and Civil Society in Mexico City:
Through the Federal Law to Encourage the Activities of Civil Society Organizations

by

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ABSTRACT

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In the 1990's civil society organizations in Mexico started working together and were able to propose a law to establish the bases of the relationship between civil society organizations and the State. In 2004, the Federal Law to Encourage the Activities of Civil Society Organizations was passed.

The hypothesis of this case study is to understand if the 2004 Federal Law to Encourage the Activities of Civil Society Organizations has created a greater level of political influence for civil society organizations in Mexico. By answering to the questions of what were the goals, intended outcomes and actual outcomes of Mexico's 2004 Federal Law to Encourage the Activities of Civil Society Organizations?

As shown, the main purpose of the Law to Encourage the Activities of Social Development of Civil Organizations was to “stimulate the organized participation of citizenship...[by]... giving legal strength to the encouragement for activities of welfare and social development (LFFAOSC, 2008, p. 1). The Law creates for organizations a normative approval from the government, as it recognizes CSOs as contributing to the public good. However, when considering the actual influence and real impact, the LFFAOSC has not been able to accomplish all of what initially was intended.

Civil society in Mexico City is becoming a micro-space in where citizens are able to discuss, debate, find solutions and make decisions to social, political and economical issues. As citizens are able to participate and be responsible in conjunction with government regarding the future of democracy and civil society in Mexico City. The LFFAOSC is considered a very good first step but one of many tools CSOs and governments will need to develop in order to foment a more vibrant civil society.

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Introduction

In Mexico, civil society organizations have drastically changed in the last 30 years, as structural, political and cultural changes within Mexico, as well as the transformations of a globalized society, have allowed for other sectors to participate in the social and political landscape. Civil society organizations of Mexico are still under construction, but are gaining resonance as the role of civil society is associated with the democratization process of Mexico and the rest of Latin America (Olvera & Avritzer, 1992). For this case study, civil society is defined as the space separate from the state, the market economy and family. Civil society is the space that encompasses a larger collective; it has a relationship with the state and the economy and it also represents the voice of the public sphere.

In 2004, civil society organizations in Mexico made strides in the development of this new sector, as a new law the Ley Federal de Fomento a las Actividades de las Organizaciones de la Sociedad Civil or Federal Law to Encourage the Activities of Civil Society Organizations (LFFAOSC) was approved. To many this law means redefining the relationship between civil society organizations and the government in Mexico, deepening democracy throughout the different threads of society and allowing larger and more diverse groups participation in the political process.

1. Problem statement

In the 1980s the concept of civil society was “rediscovered” as nations and governments of Eastern Europe and Latin America transitioned into democracy. By the 1990s, civil society became a popular concept among political scientists, the media, organizations and governments because it signified an important subject in the development of democratic governments and institutions and against totalitarian socialist forms of government.

Civil society and democracy have been hypothesized as interdependent; in order to have a democratic government, people need to gather independently from the state and the market to express their concerns and articulate their ideas. In turn, civil society needs institutions of democratic government to ensure its development and continuation.

However, the role of civil society has not been adequately defined, and is being broadly used to express several ideas within very different contexts.

- 1) One such interpretation is the importance of nonprofit organizations, NGOs and the third sector in the formation of civil society and its role in strengthening democratic governments. This has led to a lack of a contextualization between the relationship of these organizations and the process of developing a “vibrant” civil society and democratic forms of government. What are the aspects and elements of civil society that help deepen democracy in a society?
- 2) As most of the information regarding civil society organizations comes from the United States and Western European countries, the literature has

superimposed the reality of these countries onto other nations, overlooking the complex relationships such organizations have with the idiosyncrasies of each locality (Mercer, 2002). It is crucial to analyze civil society organizations with each locality's context, since "organizations ought to be seen and comprehended as significant cultural entities, as norms of behavior will shape the organizational unconsciousness" (Center, p. 8) and therefore the way they are developed and defined.

The two issues described pose a significant disconnect between the role of civil society organizations and the actual influence they have on government institutions, democracy and society at large, as well as the legitimacy of the outcomes they produce.

The literature and research describe Mexico as having a very "underdeveloped and weak" civil society, as well as an "incipient" form of democratic government (Avritzer, 2006; Layton, 2009; Salamon & Toepler, 2000). However, there has also been significant progress in the past couple of decades. Civil society organizations in Mexico started working together in the 1990s, and were able to propose a law to establish the bases of the relationship between civil society organizations and the State. Finally in 2004, after ten years, the Federal Law to Encourage the Activities of Civil Society Organizations was passed.

2. Research question

For my MPA thesis, I want to understand, from theory to practice, how the discourse of civil society within Mexico is understood by civil society

organizations. Moreover, how are civil society organizations located in Mexico City able to participate, influence and modify policies in government? How can civil society organizations create a more vibrant civil society and a more democratic form of government? As the scope of this research is very broad, I will narrow my focus of inquiry by specifically answering the question: What were the goals, intended outcomes and actual outcomes of Mexico's 2004 Federal Law to Encourage the Activities of Civil Society Organizations?

By answering this question, the hypothesis developed is: The 2004 Federal Law to Encourage the Activities of Civil Society Organizations has created a greater level of political influence for civil society organizations in Mexico. Cohen and Arato (1992) explain how bureaucratic-authoritarian regimes (like the Mexican government during the ruling of the PRI), suppress the space of mediation between the private sector and the government, and therefore the "task of democratization is primarily to reconstitute these [all types of mediation]" (p,51).

3. Importance of research

The overarching theme of my MPA thesis is the relationship between civil society and government. My focus will be how civil society organizations in Mexico influence the state in order to create a more democratic form of government. I think this is an appropriate subject for the discipline of public administration because there is a direct link between civil society organizations and public agencies. Governments are passing off a large percentage of the responsibility of social services to civil society organizations. In addition,

governments are funding civil society organizations to provide services to large populations. Civil society organizations and public administration are part of what Lester Salamon refers to as “governance.” Public administrators are not the only ones providing services but are collaborating with other forms of organizations and the private sector to address needs of the public good. Public institutions and public administrators can play an important role in creating the right conditions for the development of civil society.

4. Limitations and Boundaries

This case study is limited by several factors. The interviews only take place in Mexico City, presenting only the perspective of the Federal government as well as only the viewpoint of the urban area.

The people interviewed knew about the development of the 2004 Federal Law to Encourage the Activities of Civil Society Organizations (herein referred to as the Law), and were part of the group who helped to develop and implement it. I did not interview or conduct surveys with members of organizations that had been through the process of accessing federal grants before and after the introduction of the Law. Since I only interviewed a limited number of people, the ideas and issues presented do not necessarily represent the entire gamut of perspectives of Mexico’s civil society.

This case study is also limited by time constraints as I only had a few weeks in Mexico to conduct these interviews. My own personal perspective and knowledge is part of the entire development of this case study.

Literature Review

The literature review for the MPA thesis showcases the development of my own process of thought and discovery regarding the Law. I started by trying to answer some large and unclear meanings of civil society, how it changes through time and develops into what we currently understand about civil society. From there I became interested in finding out more about civil society in Latin America and how it was interpreted in countries where I thought civil society was almost nonexistent; therefore, the literature review will explain those assumptions and make some clarifications. Once I reached this point, I came to realize I needed to focus my scope even more; Latin America's civil society is as diverse as its climates, people, languages and foods, so I decided to look into Mexican civil society. Once I was immersed in the complexities of the nation's civil society, I came across a Mexican law that had just passed in 2004. This caught my attention and I wanted to find out more about this law and its implications. Consequently, in this process I had formulated my research question and my literature review.

1. Evolution of Civil Society

The literature on civil society has presented democracy and civil society as dependent on each other. On one hand, in order to have a stable civil society, institutions and organizations need to be in place to protect and ensure the continuation of civil society. On the other hand, to have an inclusive democracy there needs to be a space for members to gather and associate, to express themselves and have a voice without government observation and/or interference.

Civil society's starting point was the 18th century, historically situated during the Scottish Enlightenment. It was during this period when it received its fullest articulation, because there was a break in the social order. The traditional authority of god and the power invested in absolutist sovereignty began to be questioned. The "contract" maintaining political authority and social order became uncertain, triggering the "search for new principles of moral unity within societies" (Seligman, 1992, p.20). Overall, there was a distancing from theological philosophy. In addition, this period was also characterized by the development of a new economic proto-system. Mercantilism and monetarism created the new motivation of "self-interest". The social order became based on the principal of individualism and participation in the public arena (Seligman, 1992, p.111), which was grounded in "natural law" and "rationalism".

During the Scottish Enlightenment, new dichotomies emerged (individual/social, private/public, egoism/ altruism, and government run by reason or passion), becoming characteristic of civil society (Seligman, 1992, p.25) and redefining the social order. The line between the individual and the social, the public and the private was not as clearly demarked. However, the Scottish Enlightenment, "managed to articulate a representative vision of civil society where the particular and the universal, the private and the public, were indeed within one field of meaning" (Seligman, 1992, p.35). During this period, civil society as a concept was still synonymous with the state, but the seeds were planted to separate these concepts and start thinking of government, family, and economy as different realms.

In the 19th century, civil society took different forms. Hegel established the modern concept of civil society by situating it between the family and the state. Civil society provided the foundation for the contemporary needs-based system of modern capitalist economy, as Hegel articulated the “corporation” was there to maintain the balance between individual wants and communal bases. The purpose of corporations was to create a place where men could come together, create associations, and promote diversity and pluralism (Avritzer et al. 1992, p.233) separate from the state but not from the economy. Hegel also saw the state as the only institution above all others that could maintain and regulate the ethical and social order.

Antonio Gramsci focused on “citizenship” and participation in civil society. Gramsci divided society into the state, civil society and the family, separating the state from the economy and civil society and attributing distinct roles for the State, the market economy and civil society. In conclusion, the 18th and 19th centuries, as described by Seligman and Avritzer et al. (1992), were characterized by a tripartite formulation of civil society, expressed in the separation between society, the state and the market. While this helped create a new social order, the state was not as dominant and did not have such an active role in all aspects of society. Even so, this new social configuration was developed in the countries and nations of the West; the reality of Latin America was different.

2. Definitions of Civil Society

How these philosophers define civil society is very diverse. Each adds nuances to definitions shaped by their own perspectives and experiences. There are two main definitions of civil society. The first is everything that is not the state (market, law, networks, public space, family, etc), and the second definition focuses on civil associations.

Civil associations are presented as separate from the state and the market, but not separated by an impermeable barrier, since civil society has a complex relationship with the state and market. Civil society is influenced by these two spheres, and can either be sustained or opposed by the authority of the state. Civil society is presented as a space for pluralism and the formation of social movements. This space also creates pressure on government and economic institutions through the democratic formation of public opinion. The public sphere becomes the voice of civil society (Santillán, 2004) that can influence the State and market economy, and vice versa. Benjamin Arditi (2004) also sees Civil Society as a “political realm” and not just as a neutral space, because it can determine institutional order and objectivity, created by the collective action of women and men, but not necessarily by political parties. In addition, civil society, according to Leonardo Avritzer (1997), needs to incorporate the legal delimitations of civil society that are dependent on the juridical system that can make this space effective. The juridical system is the space that needs to be neutral and apolitical “to guarantee the autonomy of civil society” (Avritzer, 1997, p. 90).

Overall, the concept of civil society is and can be used in three distinct ways. First, civil society is used by social movements and political parties as a political slogan. Second, it is used by social scientists as an analytical concept to explain macro and even micro phenomena of social organization. And, lastly, it is used as a normative concept to represent an ethical ideal or, in other words, a new social order (Seligman, 1992, p.201).

Avritzer et al. (1992) as well as Seligman, argue that when so many uses and definitions exist, the concept of civil society loses its analytical power and normative component (Avritzer et al., 1992, p.228). Nevertheless, the definition of civil society I will be using articulates the space separate from the state, the market economy and family. Civil society encompasses a larger collective; it has a relationship with the state and the economy and it develops the voice of the public sphere.

3. Development of Civil Society in Latin America

It was not until the 20th century that the idea of civil society would actually be introduced in Latin America (Avritzer, 2006, p.36). This delay was a consequence of the great power and weight the State had over society and the interconnection between the private and public sphere. In addition, it was a hierarchal society, where free individuals were not equal. With the introduction of a market economy, an incipient middle class emerged which liberated the state from having such an active role in the economic sphere (Olvera A. J., 1997, p. 111). Civil society became the means of creating and reconstructing new social ties (Avritzer, 2006, p. 37). More specifically, civil society was constructed as a

reaction to authoritarian regimes, economic modernization and a lack of accountability of the political systems in place. Civil society was first used in the 1980s by social movements and civil associations that were able to organize collectively and “independently” from the State and the market.

The modernization of Latin America in the 20th century helped develop an initial civil society and the concept of civil society became part of the academic and theoretical discussion. However, as seen in the readings, it was not an organic process of the evolutionary political mindset of this particular society. In addition, if we take into consideration Octavio Paz’s (1972) words in which he explains Mexican history, we can see how this concept was a superimposition of western culture and values:

[we are]...only a fragment of world history, by which I mean that – except for the Revolution- we have always lived our history as a minor episode in the history of the world as whole. As for our ideas, they have never been really ours: they have been impositions and importations from Europe [...] Mexican history would simply be a consideration of the various ways in which we have reacted to the themes proposed to us by world history (p.169)

The problem then centers on the reality that political and economic modernization of some Latin American nations did not accomplish a liberal political system, compared to what we think of as democracy in Western countries (Avritzer, 1997, p.88). In Latin America, the theoretical aspect of the democratization/ modernization process focused on negotiation between power holders and democratic/ political actors, which ignored the learning process required by democratic nations, in order to assure standards and norms for other

sectors (especially social) of society to participate (Olvera , 1997). These concepts were new for these nations, and this process overlooked the importance of development of civil society.

Olvera also critiques how theories of civil society do not consider “the personal and collective dependence” (1997, p. 105) of these societies and assumes that the same social tissue of democratic institutions of Western Countries are and can be consolidated in Latin America. These ideas have also been expressed by Phillip Oxhorn (2006), when he states Latin American civil society theories are elitist, because they exclude a large part of the population by considering a rigid focus on the individual at the expense of the collective, as well as to form a significant separation between the state and civil society.

On the other hand, Olvera’s arguments also suggest that Western institutions have not been adequately put in place and on many occasions have been used instead as “new instrument[s] of domination” (1997, p. 106), since rights, freedoms and entitlements have not yet been institutionalized for all in Latin American society, and therefore traditional political practices (clientelism, patrimonialism, corporatism) can coexist with democratic governments

Reading Olvera's arguments, I think back to Tocqueville and his observations during his visit to the United States in the 1800s. Latin America's society has been described as having “strong private space that personalized formal relations, establishing some sort of hierarchy between free members of society” (Avritzer, 2006, p. 36). However, in order to cultivate and develop democratic systems there needs to be a social condition of “equality” among

men, and this hierarchal society did not foster a society of equals (by definition). Tocqueville added that having equality can produce a further social condition, "the individualism of men". As men need to "satisfy their own wants...and they are able to imagine that their whole destiny is in their own hands" (Tocqueville, 1956, p. 194). Nevertheless, this individualism can be counteracted with another political condition of democracy, "free institutions" (Tocqueville, 1956, p. 195). Free institutions obligate men to participate in public affairs and therefore accentuate the feeling "that they cannot do without the people who surround them, bring[ing] [people] together" (Tocqueville, 1956, pp. 195-196). For Tocqueville, the way Americans associate was a way of being, representing a space of power and control over society. The power of association can balance the power of individualism, preventing despotism from developing in democratic nations (Tocqueville, 1956, p. 201). However, in Latin America the private and the public/political were so intertwined, it could not lead to "a process of differentiation" (Avritzer, 2006, p.36) that could establish the foundation of civil society.

To conclude this section, it can be seen that one of the issues delaying establishment of a strong and vibrant civil society in Latin America is propagated by the lack of rights and freedoms of democratic institutions that protect the rights for all people and not just for certain groups and individuals. With this said and considering Olvera's ideas, in order to have a strong and long lasting civil society is in part a product of a democratic government with democratic institutions. In addition, for social movements to truly influence the political and new economic

agenda, free democratic institutions need to be in place. People's rights, social justice and freedom have to be a part of the democratic system of a nation in order to ensure a healthy civil society.

Even though since the 1980's more governments in many countries in Latin America have adopted democratic practices and institutions, these institutions have not yet been able to provide the minimal conditions for all citizens to practice their rights and obligations (Montiel, 2004). This is true in part because democracy in Latin America has been conceived as a political system of inclusion and not of a self-organized society that can eventually have control over the state and the economy (Olvera & Avritzer, 1992). Latin America's democratic governments are opening the space for society to participate and have a voice in the political process, but lack systems for civil societies to make decisions and structural changes.

In many Latin American countries, including Mexico, the concept of democracy has been ambiguous. Democracy was not understood as a way for society to self-organize, and in turn to create controls over the state and the market. Therefore the institutions that safeguard those limits were ignored (Olvera & Avritzer, 1992). The conditions necessary to develop a strong civil society were not fostered, instead the historical and cultural barriers were maintained.

4. Development of Civil Society in Mexico

In order to understand how civil society is expressed in Mexico, it was important to look at literature that examined the country's democratic system.

The Mexican transition to democracy was different from other Latin American countries, since other countries like Chile, Peru and Argentina had dictatorships that came to an end in a determined period of time. In Mexico the situation was different; there was not a date or one single event that helped Mexico transition into a democracy, like the collapse of a dictatorship or the re-establishment of the constitutional order, but multiple factors and reforms over a long period of time (Castañon, 2004; López, 2004).

The Mexican democratization (Castañon (2004) was an impulse from the bottom up. Between 1977 and the election of 1988, social movements came together with political parties, pressuring the political elites to respond with reforms, eventually creating new spaces and opportunities for participation of the citizens by trying to create a strong suffrage system and expanding the public sphere. Overall, social movements in Mexico, according to López (2004) had a fundamental role in the democratization process. In Mexico, civil society was a reaction of the economic modernization of the country, as well as a way to incorporate more participation of the individual in non-state initiated organizations and activities.

The authoritarian regime in Mexico was characterized by its stability. During the 1980s the political pressure increased from the bottom up, in part due to the financial crisis of the 80s and the earthquake in 1985. As a way of stabilizing these social pressures, the government saw as the only viable alternative to maintain the stability of the political status quo was to be complacent to the pressures that developed from the economic crisis (Castañon,

2004, p. 85). Organizations and civil associations became an important factor guaranteeing trust and confidentiality in political elections, creating a civil society that worked autonomously from the State and the market economy.

Between 1988 and 1994 Mexico went through fundamental changes. Moving the neoliberal agenda forward made the State take a step back from its role in the economy and society and created more of a difference between the State, the market and the rest of society. During this period social movements were also emerging, demanding “political rights, democracy and the rule of the law” (Olvera A. J., 1997, p. 112). Currently, there are hundreds of civil society organizations in rural and urban communities in Mexico addressing a wide range of topics and issues. However, their influence compared with other countries with similar characteristics is said to be weak (Salamon & Toepler, 2000).

The process of passing the Ley Federal de Fomento a las Actividades de las Organizaciones de la Sociedad Civil or Federal Law to Encourage the Activities of Civil Society Organizations (LFFAOSC) between 1994 and 2004 created a body of literature developed by academics, members and organizations who wanted to pass the law and government agencies who were involved in the process. The goal of the LFFAOSC as stated was to encourage the development of democracy, specifically by increasing the participation of citizens to promote a new “civic culture” by changing the way power “is structured and distributed” (Gobernación S. d., 2008; Consejo Técnico Consultivo). The second goal of the law was the advancement for a more just, democratic, fair and solidarity society (Consejo Técnico Consultivo). By looking at the goals, intended outcomes and

actual outcomes of Mexico's Federal Law to Encourage the Activities of Civil Society Organizations we may gain some insights on how in Mexico civil society is understood and therefore how such organizations can participate, influence and modify public policies.

Methodology

In this chapter, I present in more detail the data gathered for this case study as well as the research design, the data collection methodology, the participants, and the procedure of analysis.

1. Research Design

The research design for this case study is predominately an exploratory research effort (Babbie, 2010, p. 90), as it satisfies the curiosity to understand the relationship between the government and civil society organizations in Mexico through the lens of the LFFAOSC. As seen in the literature review, the information and research done concerning this subject has been limited. The Law is relatively new, and as a result there is not a historical perspective to truly understand the impact of the Law in society or as a link between the government and civil society.

Using the techniques of qualitative research will help answer my research question and build theory linking the role of civil society organizations to the development of democracy in Mexico.

2. Data collection

This thesis is based on two approaches of data collection: an in-depth study of government and academic research about the LFFAOSC, and exploratory interviews with key members of civil society organizations in Mexico were conducted.

The study of government and academic research was conducted by using a “snowball” strategy as one study brought new authors, topics, definitions and concepts to discover. The literature review reflects my initial interest in understanding the role of civil society. There was a broad scope of inquiry that began to narrow itself as I aimed at discovering new studies helping me develop my research question. Once I came across the LFFAOSC, I redirected my research on finding more information about this specific Law, and from there I came across individuals who I would later interview.

The explanatory interviews were conducted in Mexico City between May 18th and May 28th 2010. The length of the interviews was approximately one to two hours. The interviews were conducted in some of the individual’s work offices, homes, and public spaces of Mexico City such as coffee shops and restaurants. The conversations were recorded in an audio recorder, in conjunction with taking notes of the interviews.

Each of the interviewees was given a Human Subject Review letter of consent. It was explained to them the purpose of this interview, who would read the results, and where this thesis will be published. They also had the opportunity to choose if their name or identity would be maintained confidential or would be named in the final thesis. Most of the interviewees allowed their names to be disclosed but two preferred their names to remain anonymous.

The individuals who were interviewed either were part of the founding group who helped pass the Federal Law of 2004, or currently work as public administrators in government agencies and or social civil organizations. In order

to reach each of them, a snowball sample method was used by soliciting name and contact information of other key members from the Mexican government and organizations.

Several questions (see appendix) were used as guides; however the interview style used was more of an open-ended approach. The interviewees were allowed to freely tell their stories and experiences, because I did not want to limit their answers. This approach permitted me to have a conversation with the people I interviewed and to take the conversation where it was most informational and relevant to the subject. I felt I was able to discover and learn more, since in each of the conversations, I came across new topics and issues I hadn't thought of or hadn't read in the literature review. The interviews were also not limited to my preconceptions about this topic and I could freely explore the intricate and complex reality of Mexico's civil society.

3. Subjects/ participants

The subjects interviewed were part of several groups of people who have worked closely with different aspects of the LFFAOSC. Fifteen people were interviewed; as mentioned before some were part of the founding group of the LFFAOSC, others worked for government organizations and/or civil society organizations.

Below I present a short biography of each of the interviewees and how they became involved with the LFFAOSC, except for the two people who would like to keep their names confidential.

Table 1 Participant of Interviews

Name	Organization	Role in the process of LFFAOSC	Date of Interview
José Pepe Piña	Fundación Nuevo Milenio	Member of the Consejo Consultivo	5/19/2010
Blanca Heredia Rubio	Secretaría de Gobernación	Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil	5/20/2010
Janet de Lura Jimenez	Secretaría de Gobernación	Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil	5/20/2010
Leticia Ramirez del Alba Leal	Secretaría de Gobernación	Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil	5/20/2010
Fernanda Ocejo	Secretaría de Relaciones Exteriores	Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil	5/19/2010
Michael Layton	Director of the Project of Philanthropy and Civil Society in Mexico.	Academic/ Researcher	5/21/2010
María Carmen Robledo	INDESOL	Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil	5/24/2010
Consuelo Castro Salinas	CEMEFI	Original member of the group who passed the LFFAOSC	5/25/2010
María de los Ángeles Denegri	Director of General Relationship with Organizations of Society, Citizen Participation and Transparency	Member of the Consejo Consultivo	5/26/2010
Almudena Ocejo	CIESAS	Researcher	5/25/2011
Fernando Castro y Castro	Fundación Miguel Alemán	Original member of the group who passed the LFFAOSC	5/27/2010
Lorena Cortés	CEMEFI	Researcher	5/26/2010

4. Procedure

Following these interviews, I transcribed the recorded interviews and compared the transcripts with the notes I made during the interviews. I read the transcriptions and highlighted important subjects and recurrent themes discussed on most of the interviews. I developed a list of the themes that became the topics I developed throughout this case study.

The ideas (data) presented in the interviews were compared with the ideas presented by the authors from the literature review, as well as information gathered from reports done by different Mexican agencies and information presented in websites of government agencies and civil society organizations, in order to:

1. Evaluate if any discrepancies occurred between the theoretical and practical implications of the development of civil society as defined;
2. Analyze the necessary conditions for the development of a vibrant civil society;
3. Compare the intended and actual outcomes of the LFFAOSC;
4. Conclude if civil society organizations have an impact on the development of the democratic process in Mexico City.

Findings: Federal Law to Encourage the Activities of Civil Society Organizations

Civil society organizations in Mexico can be defined as “free organizations, voluntary, of citizens...[that] carry out actions related to the collective wellbeing, and influence the public decisions and norms...” (Cohen & Arato, 1992, p. 10). The role of civil society is fundamental; contributing to the transparency of power and to the democratization of the political process (Cohen & Arato, 1992). The focus of this chapter is to understand the role of civil society in Mexico, by specifically looking at the historical development of Mexico's third sector, and analyzing the formation, intended goals and of the Federal Law to Encourage the Activities of Civil Society Organizations (LFFEACSO). Can a legal framework propel a sector to grow, thrive and become an essential actor in Mexico City's social and political life? Does civil society in Mexico City contribute to the transparency and democratization process?

1. Brief overview of the development of Civil Society in Mexico

While civil society organizations in Mexico are a relatively new phenomenon, philanthropy and charity have been fundamental pillars of Mexican society since the colonial period. Nevertheless, Mexico's civil society continues to be small compared to other nations of the same size and income (Ablanedo Terrazas; Layton, 2008; Salamon & Toepler, 2000). As will be shown, historical, cultural and political processes have created unique barriers and opportunities for the development of civil society in Mexico.

Mexico has a long tradition of “obrapía¹”, which has historically been carried out by the Catholic Church (Castro y Castro, 2010). The Spanish religious influence on charity and social work had a strong impact on the social issues of Mexico and in the future development of civil society. From 1521, the beginning of the colonial period of Mexico, the main social actors were the Spanish Monarchy and the Catholic Church, religious institutions that took on social issues. The first philanthropic organizations constructed in Mexico were schools and hospitals (Valdés Castellanos, 1998) because the leading social dilemmas of the time were focused on the evangelization process and health conditions of indigenous communities. Contemporary civil society organizations in Mexico are thought to have originated from organizations from this period, and with time bifurcated as they disengaged from religious institutions (Harguindeguy & Molina, 2009).

After the Mexican Revolution of 1910, the impending separation from the Church opened the door for a secularization process of society and power shifts in general (Valdés Castellanos, 1998, p. 67) as the Government became the key institution of Mexican society. The State adopted a corporatist economic and political model, characterized by paternalistic oversight and high levels of state intervention in the public and private spheres (Harguindeguy & Molina, 2009), absorbing many of the Church’s previous charitable responsibilities. The result was a variation on civil society, one permeated by government apparatus (activities, processes, regulations and control).

¹ Obrapía: Spanish term that defines social work, help, welfare, etc.

As the governing party for more than 70 years, the Partido Revolucionario Institucional or PRI (1929-2000) created a very unique relationship between the government and society at large. From the beginning of the PRI, the State controlled the social welfare of the nation and described itself as a public champion, responsible for alleviating the hardship and difficult conditions of the working class and the less fortunate (Castro & Castro, 2010). In the 1940s the PRI established the Government as a social welfare state in which the Mexican government played a key role protecting and promoting the social and economical well-being of the most vulnerable, and all social demands had to be made to the Mexican government. The welfare state constituted by the PRI was also an authoritarian regime; it guided, directed, planned and diagnosed the social issues affecting Mexico: “All of the power of the country was concentrated in the State, looking to deliberately monopolize the public sphere and leaving few spaces for free associations; to the point society started to be organized from the State, or to be controlled when it displayed autonomous initiatives” (Ablanado Terrazas, 2009, p. 4)

As a result of the political regime established by the PRI, the State and the Church were in constant conflict during and after the Mexican Revolution due to their ideological differences, the economical and societal power of the Catholic Church, differing views on the direction of Mexican society and high levels of control of the PRI on everyday lives. In addition, the power struggle between the Church and the State helped promulgate the tension between the government and social organizations that had separated from the church, as the government

continued to view social organizations as an extension of the Church's power and influence on the social and public spheres.

Even though the government had absorbed many social responsibilities, the Church continued to lead the charitable and philanthropic work done in Mexico. In spite of the conflicts between the Church and the State, their relationship was sustained throughout the years because the interventions – how the Church and the Government addressed social problems - made by these two sectors were never questioned by other members of Mexican society until the 1960s (Ablanado Terrazas, 2009; Layton, 2010). Each sector until this epoch had the duty to “take care” of the most vulnerable citizens.

During the 1960s (specifically in 1968 with the student movement) the interaction between citizen organizations, the government and the church changed. Civil society organizations started noticing and questioning the types of interventions made by the government and religious institutions, deemed it was not sufficient just to “take care” of the population, and proposed new types of involvement. This incited a more critical attitude from civil society organizations towards the government and the church's philanthropic work (Ocejo, 2010). By 1968, the focus of civil society organizations was the “development” of society, and communities became the focal point of the discourse of CSOs. For example, all members of society had to be active participants in their own development.

This new perspective was in part influenced by international organizations having an interest in the development of third world countries, and viewing CSOs as essential partners in addressing topics like poverty, education, economic

development, health, etc. International organizations did not just see government as the only partner of this process but were also looking at national social organizations and movements for answers and for CSO's to become a viable piece of the solution (Castro y Castro, 2010).

Civil society organizations that were formed during this time provided mainly charitable, hand-out assistance. Modern civil society organizations in Mexico originated during this period, as organized citizens took on social issues filling the gaps not considered by the Church or State, for example encouraging political participation from citizens, denouncing human rights violations and fighting for free and transparent organizations. The most significant and influential branches of civil society became leading actors in the electoral process that took place in Mexico in 1994. The largest effort set forth by CSOs, acting independently from the State and Church, came together to ensure transparency in the electoral process (Middlebrook, 2004, p. 13). The event has great significance because it was the first time organizations coordinated their mobilizing efforts, accomplished a successful result and changed the political landscape. These organizations realized the capabilities and influence CSOs were capable of when working within an enabling environment of development. Several organizations that participated in the electoral process of 1994 also took a leading role in writing and passing the LFFAOSC.

Moreover, the relationship between CSOs and the government was starting to take shape during this period, a relationship based on collaboration

with organizations that focused on philanthropic work and/or by conflict if organizations focused on influencing the political process.

Following the steps of the 60s and 70s, another influential juncture for the development of CSOs came after the devastating earthquake of 1985 struck Mexico City, exposing the economic limitations of the government and leaving hundreds of thousands of people in extreme poverty. The earthquake, in conjunction with an economic recession, left the government with no other choice than to allow CSOs, both domestic and foreign, to get involved in the political process. As neoliberal tendencies became part of the Mexican government's political agenda, aged social welfare policies could no longer be economically sustained by the fiscal budget, allowing for CSOs to proliferate, and for a new generation of philanthropists to emerge.

2. Characteristics of Civil Society Organizations in Mexico

To this day CSOs constitute a very small sector of the Mexican economy. In the year 1995, CSOs only represented 0.5% of the GDP (Gross Domestic Product), which translates to 8,800 million pesos or \$755 million US dollars of the current exchange rate. The number of people this sector employs is also small, 93,809 people in 1995, representing only 1.2% of service sector jobs (Verduzco, Salamon, & List, 2004). It should be noted, however, that some consider the sector larger than the numbers represent, and good data are scarce. Many organizations are informal, and are not registered as formal organizations with the state or federal government. Some have a very localized mission, and do not see

the benefit of formalizing their operation because the cost might be higher than the benefits (Gobernación, 2010).

There is also a lack of resources, both financially and in the workforce, signifying an important obstacle for the development of a vibrant civil society. It should be noted that this is not just an issue for Mexico but for social organizations around the world. Moreover, organizations in Mexico do not have a balanced funding stream and receive support primarily by fee for services with only a small percentage coming from government and philanthropic endowment (Layton, 2008).

The private and the public sector contribute a small percentage of CSO funding, representing 6.3% and public funding constituting 8.5%. The rest of the funding (85.2%) comes from membership payments and profit from service delivery (Verduzco, Salamon, & List, 2004). The reasons for an unbalanced funding stream can be mainly attributed to the Mexican fiscal framework (Layton, 2010).

The federal tax department, the Servicio de Administración Tributaria (SAT), has limited the number of organizations that are authorized to receive donations for tax exemptions "donatarias autorizadas", mainly to organizations classified as Instituciones de Asistencia Privada or Institutions of Private Assistance (IAP). In order to be a "donataria autorizada," organizations must have the appropriate accounting system that can issue a receipt for donations. Organizations also have to fulfill one of the social objectives listed in the Income Law or Ley del Impuesto sobre la Renta (LISR). The list of organizations that can

be "donatarias autorizadas" must have a core mission such as providing services to at-risk communities, providing educational support to children, fomenting the arts, preserving nature, as well as service type association and cooperative associations.

Fiscal incentives, like tax breaks, are viewed as decisive in order to encourage people as well as corporate giving and therefore are becoming an important funding source for the development of CSOs. However, only 20-30% of Mexicans pay income taxes, leading one to surmise that tax incentives won't become an incentive for many families and small business to donate, but can be an incentive for donations from large corporations and wealthy families (Verduzco, Salamon, & List, 2004).

When people do make donations, they mainly give in small amounts and in spontaneous ways. Research shows that 60% of Mexicans would rather give their money directly to individuals because they believe it will be better spent and it will immediately benefit the person in need (Layton, 2010). Mexicans prefer informal ways of giving rather than large donations to formal organizations as a large percentage of donations go to the church, natural disaster relief funds, handouts in the street or through keep the change programs (Layton, 2008, p. 16).

This shortage of financial resources available to CSOs is associated with a number of problems that are currently hindering the advancement of a sustainable sector. Having no secure funding sources not only means less money for direct services but also limits CSOs' ability to attract quality employees with the education, knowledge of regulations and administrative capacity to efficiently

grow an organization. The lack of professionalization amongst CSOs' employees contributes to high turnover rates, which in turn makes it difficult to systematically evaluate programs, document processes and showcase achievements (Ablanado Terrazas, 2009).

One interesting aspect that ties together and shows the relationship between resources and professionalization is that fundraisers are minimal and people are not being asked to donate. 30% of people in Mexico do not donate because they are not asked to donate (Verduzco, Salamon, & List, 2004). This shows once again both the low capacity and professionalization of organizations in Mexico regarding organizational development and also their "marginal presence in daily lives of Mexicans" (Layton, 2009, p. 16).

Ileri Ablanado (2009) makes an interesting connection between the lack of professionalization and the cultural view of CSOs. The traditional concept of CSOs in Mexico has been characterized as an assistive and charitable organization that is staffed by volunteers, or individuals who come to help from a deep devotion or calling to take care of a particular community. Therefore the organizational development and administrative aspects necessary for a successful organization are not considered fundamental necessities for the core mission of a given charitable organization.

Another factor which needs mentioning is that there is a generalized distrust towards formal organizational structures in Mexico, due to high corruption levels and high levels of distrust towards individuals (Layton, 2010) with 64% believing other citizens are dishonest (Ablanado Terrazas, 2009, p. 15).

This general lack of trust amongst Mexicans can be quite threatening to organized civil society since it hinders the expansion of social networks and limits CSOs to close circles of individuals.

The aforementioned characteristics show that there is a cultural devaluation of the importance of CSOs that comes not only from external causes (government, donations, grants, corporate contributions to name of a few) but also from internal causes (lack of professionalization, organizational capacity, networking and infrastructure). The same people who form part of the CSOs in Mexico devalue and marginalize their work and the work done by CSOs.

Even though it is currently a small, informal sector and regardless of the lack of resources, CSOs in Mexico are on the rise (Salamon, Sokoloski, & List, 2003) and are providing extremely essential services not being administered by the government, the private sector or the church. Moreover, they are being invited to the table to become active voices in policies and programs influencing CSOs and the public. What factors are encouraging the growth and development of CSOs? Could these changes be an influence of the LFFAOSC being in place since 2004?

3. Development process of the LFFAOSC

The LFFASOSC was passed in 2004, and this section will explain the development process of the Law. This will help us understand with more detail the circumstances of how the Law came into existence before explaining what the Law stipulates and the influences it has had on the development of CSOs in Mexico.

In the 1990s, following social movements, natural disaster and economic crisis, civil society organizations concentrated on promoting the values of democracy, initiating the process to create a legal framework that would recognize the work of CSOs and their contribution to the public good (Consejo Técnico Consultivo). The goal was to create a platform and adequate environment for the growth and development of Mexican civil society, and ultimately led to the LFFAOSC.

The legal framework in which organizations were situated before the LFFAOSC was under the Civil Code of each state. There were two types of organizations: Asociaciones Civiles or Civil Associations (AC) and Instituciones de Asistencia Privada or Institutions of Private Assistance (IAP). Civil Society Organizations considered IAPs were under a different law called Ley de Instituciones de Asistencia Privada or Institutions of Private Assistance Act of 1942. When the State assumed the protection of the most vulnerable members of Mexican society in the 1940s, the State recognized only IAPs as of public interest and therefore tax exempt but with one caveat, the State did not see IAPs as independent-private institutions but as subsidiaries of the government. The Law of 1942, which was reenacted several times, restricted IAPs and allowed for government control by regulating their activities and accounting systems, and created a government organization which would oversee the administration of IAPs, the Junta de Asistencia Privada or Private Assistance Board (JAP). Even though several organizations could fall under the IAP Law, many opted to be ACs because many CSOs did not want to become extensions of the government

(Gordon, 1998), and were also in part less structured with fewer restrictions. This came with a price as many did not qualify to become "donatarias autorizadas" since they did not fulfill basic requirements.

Governmental stimulus existed for CSOs, but the process was very discretionary. There were no enforceable obligations or guidelines that would maintain a consistent relationship between the different government institutions and CSOs (Salazar Sánchez, 2007; Castro, 2010) and each government department had their own policies and procedures in regards to funding CSOs (Piña, 2010). Concurrently, while some CSOs were spearheading the development of democratic values, others focused on the philanthropic work providing mainly charitable, hand-out assistance (Interview with Secretaría del Interior). This fragmentation of process and focus underlined the need for organizations and individuals to come together and enhance the democratic process. "Convergencia de Organismos Civiles por la Democracia" and "Foro de Apoyo Mutuo" were born during this period as the organizations proposing a legislative reform to recognize the work of CSOs.

The legislative reform proposal created resonance in the country and more organizations got involved, including: Fundación Miguel Alemán , Centro Mexicano para la Filantropía (CEMEFI) and the Universidad Iberoamericana. This opened the door for more citizens and organizations to participate in changing the legal foundation of CSOs and for the State to reshape the role of CSOs in Mexican society (Gobernación, 2008).

The purpose of these first conversations was to establish a relationship between the government and CSOs based on a legal framework that would encourage and support the various missions of organizations, would respect their autonomy and would acknowledge the diverse work carried out. The organizations that created LFFAOSC, wanted to create spaces of dialogue between the government, CSOs and the public (Relaciones Exteriores, 2010) to recognize the legitimacy of CSOs as well as CSOs contribution to the "public good". In addition, CSOs sought-out the government to strengthen its commitment to civil society by supporting the development of the LFFAOSC.

The starting point for these organizations to work together came from a reaction to fiscal changes. Two political junctures brought forward an unbalanced relationship between the government and CSOs, leading to conversations among these two sectors and ultimately becoming the key issues underlining the common reason for several organizations to work together.

The first and most significant issue was an amendment made to the fiscal law² (Miscelánea Fiscal) of 1989. Title II of the Mexican Income Tax Law exempted non-lucrative institutions (persona moral) from an Aggregated Tax as well as an income tax, also allowing for donations to be tax deductible if they were given to registered CSOs. This new reform however, did not define CSOs as non-lucrative institutions, and as a result CSOs were obligated to pay Income Tax and unable to provide tax exempt receipts (or made such receipts irrelevant?) for donated items and moneys, classifying civil society organizations just like any other private business or “sociedades mercantiles” (Tapia & Robles, 2006;

² This reform was called in Spanish Miscelánea Fiscal, in English this means Fiscal Miscellaneous.

Consejo Técnico Consultivo). The second issue was the possibility of the executive branch passing a law which regulated the activities of civil society organizations through a unifying government figure (Consejo Técnico Consultivo; Gobernación, 2008), and limiting the classifications of organizations who could receive donations that were tax exempt.

To confront these issues and competitive ideas, between 1994 and 1997 the network of organizations created a project called Ley de Fomento a las Actividades de Bienestar y Desarrollo Social or Law to Encourage the Activities of Welfare and Social Development that would later become the LFFAOSC of 2004. The project was presented to several organizations, senators, members of the House of Representatives and members of the different parties. Parallel to this process, the House of Representatives of Mexico (Cámara de Diputados) created a special and temporary commission of citizen participation. This new commission created a Consulting Board and in November of 1998 the bill Ley de Fomento a las Actividades de Desarrollo Social de las Organizaciones Civiles or Law to Encourage the Activities of Social Development of Civil Organizations (Gobernación, 2008) was presented to the Comisión de Desarrollo Social, and the Comisión de Gobernación and Puntos Constitucionales or Commission of the Governing Commission and Constitutional Observations.

The main purpose of the Law to Encourage the Activities of Social Development of Civil Organizations was to “stimulate the organized participation of citizenship...[by]... giving legal strength to the encouragement for activities of welfare and social development (LFFAOSC, 2008, p. 1). Parallel to these

conversations, the organizations that were trying to pass legislation took advantage of a constitutional amendment to Article 25 of the Constitution of the United States of Mexico. Article 25 was promulgated and avowed the “State will give legal, administrative and fiscal support to individual and collective persons that voluntarily and for no profit provide services to the public and carry out activities towards the social, cultural and political development of the country” (LFFAOSC, 2008, p. 1). The arguments made for amending the constitution and adding Article 25 was that the Constitution had to reflect the new forms and expressions of civic participation. Therefore, the new law that would encourage the development of CSOs had specific language that mirrored the language of the new Mexican constitution. It also used the same arguments in order for a law to make it through the legislature and eventually be passed by the Congress. For example newly established CSOs were addressing issues that were not constituted as providing services to the public and carry out activities towards the social, cultural and political development of the country and therefore the legal frameworks which sustained the social participation needed to be revisited.

The authors of the law also argued that this bill would help accomplish the Plan Nacional de Desarrollo (1995-2000) or National Development Plan, because by strengthening civil organizations, all Mexicans could peacefully participate as citizens in the political process, and all individuals and communities could have opportunities to overcome some of the social issues.

Several points of discussion came from this project, and influenced the development and language used in the LFFAOSC of 2004. The initial law was

very well accepted and a consensus was reached with over 20,000 organizations. However, once the law was approved in 2004, the commission of the House of Representatives had already changed several articles and statutes “making the law theirs” (Salazar Sánchez, 2007, p.76). These changes led to a discussion between the government and the authors of the law regarding the design and implementation of the law. The four main issues were:

1. Was this law going to regulate the organizations or the activities of the organizations? From the beginning the organizations spear- heading these efforts had made it clear that this new law was going to regulate the activities of the organizations and not the organizations themselves. Civil associations were already regulated by the Civil Code, allowing civil associations to be very flexible because they are regulated internally by policies and by-laws. The law was not intended to regulate the administration, operations and structure of the organizations, because it was not the purpose of the law to limit the autonomy of each organization (Interview with Public Administrator, 2010).

The purpose of regulating the activities of organizations was to expand the scope of activities the government would encourage and support. The Executive branch was inclined to only promote the development of those organizations which were part of the National Development Plan. This point was important because if organizations are supported by the government because they are part of the National Plan, then the organizations felt they

would become part of the public administration of the plan, and would lose their autonomy (Interview with Public Administrator, 2010).

2. Was the law to be limited to the Federal realm or was it going to be a general law? A general law in Mexico normally has created national systems, for example the Sistema Nacional de Salud or National Health System and the Sistema Nacional de Deportes or National Sports Systems. Having a general law could mean higher Governmental intervention of civil associations. However, having a federal law, the intervention would be limited. While the Federal government could only contribute with resources and support, the law would not regulate or standardize the relationship between civil association and local government (Tapia & Robles, 2006, p. 30).
3. Who would be accountable for implementing this law? This part of the debate was central to the discussion because the historical relationship between the State and CSOs was characterized by conflict, an authoritarian government, and 70 years of the PRI in power. The proposal would require organizations to be part of a national registrar of organizations; the conversation then veered toward asking which government entity should maintain and administrate the registrar, but all the different organizations had a different opinion. Later as the law was amended in congress other requirements such as, board of directors and levels of bureaucracy, were added to the initial proposal.
4. Finally, what were the rights and responsibilities of CSOs and of the government (Tapia & Robles, 2006)? The main purpose of the organizations in creating this law was to establish legal recognition of the public services

The period and the debates generated between the reaction towards creating the law in the late 90s and the LFFAOSC passing in 2004, was characterized by organizations and government officials as a long struggle between different interests. The relationship between civil society and the government was changing, as a reflection of the democratic process in which Mexico was immersed. Government and civil society were in the course of establishing a “relationship of cooperation and not of competition” (Tapia & Robles, 2006, p. 21), reconfiguring the dynamics of their relationship at an institutional level but also at a personal level of both sectors.

This debate also reflected something very significant and characteristic of the reality of Mexican civil society, which is an inflated optimism and sense of what the government can and should do to strengthen the development of civil society (Layton, 2010). Government can set forth a favorable context, but it cannot be seen as the prime mover in the process - as is the tendency with most Latin American countries, to see the government as the first solution (Layton, 2010). As the debate continues from 2004 until these interviews took place in 2010, the historical precedent of having an authoritarian government for a very long period of time emerges in the process of the development of the LFFAOSC as Mexican society still looks towards the government for answers and solutions.

At this point, the importance of LFFAOSC passing on December 15th 2003 and being published in the Official Newspaper of the Federation on February 9th of 2004, is based more on its symbolic power than its contents, because it showed that the decisions are not just made by government officials and political parties but also by the citizens, whose voices were represented through CSOs. This process, according to the Secretaría de Gobernación (2008), in the long run, helped improve the relationship between CSOs and the government, since it paved the way towards a relationship of mutual cooperation working towards the public good.

4. The LFFAOSC

The development process of the LFFAOSCS was fundamental for Mexican governance, changing the overall relationship between the government and CSOs. In this chapter the content of the Law is described, in order to discover the intended and actual outcomes of the LFFAOSCS.

After years of debate and eventual passage in 2004, the most fundamental aspect of the LFFAOSCS is the recognition of organizations as entities that maintain the public order and are of general social interest. CSOs are identified as autonomous and distinct from religious organizations, political parties, and commercial business, with a legal framework in where to operate, allowing CSOs to function in a more efficient and effective manner (Poiré Castañeda, 2007, p.49).

4.1 Definition of Objectives, Rights and Responsibilities:

The purpose of LFFAOSC was to encourage the development of democracy, specifically creating a more participatory form of democracy, “in which power is structured and distributed in such a way it gives permanent and continuous voice and participation to citizens...promoting a new civic culture in which society becomes co-responsible...” (Gobernación, 2008, p. 9; Consejo Técnico Consultivo) The Law was intended to achieve a more participatory democracy by:

1. Strengthening the relationship between the government and CSOs, and bring to an end the paternalist, corporatism and “clientelismo” mechanisms that historically characterized the relationship.
2. Institutionalizing the relationship between the federal government and CSOs and encouraging the creation of spaces for greater citizen participation in public policy;
3. Reinforcing the development of CSOs in order to augment their influence in the political, social, cultural and economical development of Mexico; and
4. Promoting transparency and accountability of federal and CSOs’ administration (Gobernación, 2010).

In order to achieve a more participatory democracy of society, the Law establishes the types of activities the Federal government recognizes, fomenting organizations focused on social, cultural, democratic, sustainable and economic development. It used to be that only certain activities were recognized by the government and therefore resulted in the fomenting of a certain group of CSOs. The organizations that were nurtured were mainly organizations that address social issues but it excluded most organizations that had at their core mission

increase political participation of most citizens and therefore the goals of the LFFAOSC would be achieved. In Article 5 of the LFFAOSC the types of organizations are specified and described as organizations addressing and working in areas such as:

- I. Social assistance, as established in the Law about the National System of Social Assistance and the General Health Law
- II. Support for nutrition
- III. Promoting citizenship participation for the public interest
- IV. Offering judicial support
- V. Supporting the development of native communities and people
- VI. Promoting for gender equity
- VII. Attention and service to social groups with social disabilities
- VIII. Cooperating for social development
- IX. Defense and promotion of human rights
- X. Sports promotion
- XI. Promoting services for health and sanitary issues
- XII. Protection for natural resources, protection for the natural environment, flora and fauna, preservation and restoration of the ecological equilibrium, and the sustainable development of the regional, urban and or rural communities
- XIII. Promotion of educational, artistic, scientific and technologic development
- XIV. Encouraging efforts that are promoting small and local business
- XV. Protection of civil actions
- XVI. Supporting the creation and development of organizations that realize any of the activities promoted by this Law
- XVII. And other activities promoted by other laws (Article 5)

Accordingly, in order to accomplish the objectives of the Law, organizations were entrusted with rights as well as obligations, creating an

institutional framework for the relationship between CSOs and the Mexican government (Gobernación, 2008, p. 14). The main obligations CSOs have under the LFFAOSC are transparency and accountability with the most important right being the recognition as contributors to the public well-being of Mexican society. Table 2 details the most significant rights and obligations specified in Articles 6 and 7 of the LFFAOSC:

Table 2 Rights and Obligations of Articles 6 and 7

Rights (Article 6)	Obligations (Article 7)
<p>I. Enroll in the Federal Register;</p> <p>III. Participate, according to the Planning Law, in the capacity of consultant and participant;</p> <p>V. Access support and public stimulus for the foment of the activities provided in Article 5;</p> <p>VI. Enjoy fiscal incentives and economic and administrative support;</p> <p>VII. Accept donations and contributions;</p> <p>IX. Access the benefits towards organizations derived from international treaties and conventions;</p> <p>X. Receive advice, training and collaboration from the federal agencies to accomplish objectives</p>	<p>I. Enroll with the Federal Registry;</p> <p>II. Legally constitute the representational and representational bodies;</p> <p>III. Procure an accounting system accepted by the norms and principles of accounting.</p> <p>IV. Provide information requested by the authority in relation to the goal, by laws, programs, activities, beneficiaries, financial sources national or international, patrimony, administrative and financial operation, the use of public stimulus received;</p> <p>V. Annually inform the Commission on the activities developed and compliance of objectives;</p> <p>VI. Notify the Register change in by laws, governing bodies, goals and</p>

<p>and activities, and</p> <p>XII. Be respected in internal decisions.</p>	<p>representation;</p> <p>VIII. In case of dissolution pass on assets accessed by public stimulus and support or by other organizations carrying out activities fomented and enrolled in the Register;</p> <p>X. Promote the professionalization and training of members;</p> <p>XI. Do not engage in activities of partisan electioneering;</p> <p>XII. Will not proselytize for religious purposes; and</p> <p>XIII. Act impartially and in a non-discriminatory way in the determination of beneficiaries.</p>
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The list shows several requirements and obligations that must be followed in order for an organization to be recognized by the LFFAOSC, and for many organizations it can increase the barriers to access public support and finance (All, 2010). The Law, in these terms, provides legal protection by recognizing CSOs as subjects of rights and responsibilities, and contracting certain obligations from the Federal government in recognizing of CSOs.

The Law establishes that the Federal government must encourage the development of CSOs through access to public finance (Tapia & Robles, 2006). However, the relationship between CSOs and the public administrators from different federal agencies was characterized as being very discretionary when it

came to funding programs and granting resources. Before LFFAOSC governmental funding was based on the type of personal relationships members of the organizations had with local officials with Grant information only being found in the Official Newspaper. Consequently the distribution of resources and funding did not have a process that allowed for an equal and fair allocation of funding to different CSOs. The Law now requires open and transparent procedures in the granting of funds, stipulating information on grants and funding be published in the agencies' websites and including information regarding which CSOs were granted (Castro C. , 2010), avoiding to a certain level, discretionary practices.

The Law coordinates the relationship between the government and civil society organizations by establishing rights and responsibilities, and furthermore by enacting an institutional infrastructure for participation. The LFFAOSC also was also able to include other types of organizations as contributing to the "public good". This was fundamental in the impact on Mexican civil society because it changed the definition of what civil society organizations are and what they can do, and in addition there is recognition from the government of their contributions. The Law represents the culmination of a long process that started in the 1960s when CSOs started shifting from just "taking care" of the Mexican society to acknowledging the impact and potential civil society organizations have in creating political, economic and social reforms.

4.2 Institutional Infrastructure

Once the goals and the purpose of the LFFAOSC were established and well defined, how these goals were going to be achieved had to be identified. The

Federal government also has the responsibility of administrating three distinct governmental departments, creating particular spaces for participation, design and evaluations of policies, practices and procedures that will encourage the development of civil society organizations:

1. Commission for the Encouragement of the Activities of Civil Society Organizations or Comisión de Fomento de las Organizaciones de la Sociedad Civil.
2. Technical Consulting Advisory Board or Consejo Técnico Consultivo.
3. Federal Registry of Civil Society Organizations or Registro Federal de las Organizaciones de la Sociedad Civil.

The Commission and Consulting Board were not included in the first bill presented by the group of CSOs and were added by the House of Representatives as an Executive Order on May 18th, 2004. The reasons why these two governing boards and one registry were included, to some signifies other ways for increased government control and reach (Interview with Public Administrator, 2010), and to others, specifically to government personnel, it meant a space where government and CSOs could work together more closely. The Commission and Board would act as liaisons between the government and the CSOs. These two governing boards have created tension between organizations and the government, as the government and the boards struggle for power over the role and development of CSOs. Before unveiling the main issues, it is important to review the roles and responsibilities of each and how the boards interact with CSOs.

The Commission for the Encouragement of the Activities of Civil Society Organizations was a permanent entity and as described in article 10 of LFFAOSC had the responsibility to “facilitate the coordination of the design, execution,

monitoring and evaluation the actions and measures fomenting the activities established in article 5 of this law” (Article 10), for the purpose of creating a framework that would promote, guarantee and fully implement social rights, as well as the search for greater benefit to communities in poverty or social disadvantage (LFFAOSC, 2008, p. 49).

The Commission was comprised of four sub-Secretaries from 4 different government agencies, chosen because of their function and how their roles related to the Law and further development of CSOs:

- I. Secretary of Social Development or Secretaría de Desarrollo Social (SEDESOL);
- II. Secretary of Interior Relationships or Secretaría de Gobernación (SEGOB);
- III. Secretary of Revenue or Secretaría de Hacienda y Crédito Público; and
- IV. Secretary of Foreign Relationships or Secretaría de Relaciones Exteriores.

SEDESOL had the main responsibility, in charge of coordinating the other agencies in the fulfillment of the Law (Article 12) and contributing to the financial, human and material resources for the maintenance of the Commission, therefore no extra resources would be allocated to the management of the Commission (Article 12 of Internal Code). Specifically the Commission shall have the following authorities:

- I. Define public policies that will foment the activities of CSOs;
- II. Evaluate to the policies and actions of foment;
- III. Promote dialogue between the public, private and social sectors;
- IV. Know and enforce sanctions to CSOs; and

V. Write internal code (Chapter 3, Article 11).

As seen by the authorities invested, the Commission had a lot of influence over CSOs. It could not only sanction CSOs but also define and design public policies with its members being the only ones who had a vote in the process.

While the Consejo or Technical Consulting Advisory Board had a voice in the political proceedings and could propose projects and programs but the Commission was the governing board that would make the final decision. However, the Commission and Consejo allowed for greater dialogue with a legal basis between the government and CSOs, especially due to the role of the Consejo.

The Consejo is an honorary consultant and advisory body, with the duties of “proposing, opinionating and issuing recommendations on the administration, direction and operation of the Register and jointly with the Commission evaluate the policies and actions of encouragement (Chapter 5, Article 26) (LFFAOSC, 2008, p. 23). The Consejo is comprised of one public employee assigned by the Commission, nine representatives of CSOs enrolled in the Federal Register, four members representing the academic, scientific and cultural sector, and two members of the Legislative bodies (Senate and House of Representatives) of both chambers (Chapter 5, Article 27). The main functions of the Consejo include:

- I. Analyze the policies of the Mexican government that relate to the foment of the activities of CSOs, such as formulating opinions and proposals for application and orientation;
- II. Support citizen participation and of organizations in monitoring the operation and evaluation of public policies of the Federal government encouraging CSOs; and

- VI. Issue recommendations on infractions and sanctions (Chapter 5, Article 29).

The office of Consejo has great significance for CSOs because it constitutes the construction of a legal and institutional framework and a real voice of representation for CSOs (Consejo, 2006, p.21). A Consejo is a new type of political body in Mexican government, in which the majority of its members are there on behalf of the citizenship. In representing such a diverse sector, the Consejo would symbolize the plurality and heterogeneity of CSOs as well as promote programs that would increase civic participation and engagement, by recruiting members from all different fields.

The Consejo started as an experiment to prove that democracy in Mexico is not just about elections and casting votes but a space for participation. However, there has been critique from the Consejo towards the government, because the government has not accepted another body proposing policies or recommendations (Interview with Public Administrator, 2010) and has limited the powers of the Consejo.

The third and last governing institution is the Federal Register of Civil Society Organizations or Registro. The main functions of the Registro are to:

- I. Enroll organizations;
- II. Give record to organizations enrolled;
- III. Establish a system of information that identifies the activities, in order to guarantee local government agencies with the proper elements to comply with the Law;
- IV. Offer government agencies, organizations and citizenship information that will help comply with the obligation of the Law;

- V. Maintain accurate and update information of CSOs; and
- IX. Refer to proper authority the noncompliance or infraction of the Law by CSOs (Chapter 4, Article 16).

Instituto Nacional de Desarrollo Social or National Instituto of Social Development (INDESOL) is the government agency that acts as the Technical Secretary or Secretaría Técnica of the LFFAOSC. INDESOL is in charge of publicizing grants, funding and resources and working with Federal and local governments, academic institutions and CSOs to empower social policies to promote community and citizen involvement and co-responsibility of the political process. Through INDESOL organizations enrolled in the Register and were given a Clave Única or Unique number (CLUNI). The purpose of the CLUNI was to become the unique accreditation for organizations for any government process and any agency (Interview with Public Administrator 2010). This outcome has not been achieved, since there are still some government agencies and procedures that do not recognize the CLUNI. This increases frustration and adds more paperwork to the bureaucracy for many CSOs (Interview with Public Administrator, 2010). This was not intended by the LFFASOAC and changed the nature of the Law since the CLUNI has no value and it only augments the obligations to organizations.

To be enrolled in the Register, organizations have to present bylaws with their mission and vision, a budget allocating public funds and prove that in case of dissolution, the public funds will be distributed to another organization enrolled in the Register (Chapter 4, Article 18). Organizational bylaws in Mexico, are legal documents signed and authorized by notaries, therefore in many cases those

bylaws need to be written by attorneys. For many organizations being able to comply with those requirements signifies an additional cost of hiring a lawyer to rewrite bylaws and pay the dues of a notary to legalize the documentation (Castro, 2010; Interview with Public Administrator, 2010). In many cases organizations do not do it because they cannot bear the cost.

The Ley de Fomento a las Actividades de la Sociedad Civil was able to create a legal framework, but instead of being a framework that foment the development of CSOs, it created a framework of control due to the regulations and obligations created for CSOs and the power governing commissions, boards and registrars had over CSOs truncated the encouragement and development of civil society organizations.

Outcomes of the LFFAOSCS

It has been six years since the LFFAOSC was passed and this chapter will focus on discovering the consequences and outcomes of the LFFAOSCS. While six years is not a very long time, it provides enough historical perspective to draw conclusions on the effects the Law has had on the development of CSOs and deciding if it is accomplishing the goals it was set to achieve.

By and large, the LFFAOSC created a legal framework, defining the relationship between the government and CSOs. The Law recognizes the valuable work done by organizations as a public good and consequently redefines the “public space”, by allowing other actors, like CSOs, to participate in the public realm. CSOs now have rights, influence public policy and allow for society to participate in attending social, political and economic issues which they were not previously afforded. The LFFAOSC provides a re-conceptualization of what is public, making both government and CSOs co-responsible and complementary in their efforts (Canto Chac, 1998, p. 11).

The process of passing the LFFAOSC and the recognition and inclusion of CSOs by the government has great significance to Mexico and represents a huge milestone for Mexican society and the political process, taking into consideration that the Mexican State had been ruled by one party system, the PRI, for 70 years. Once the PRI was voted out in the 1990s and with the continual process to democracy, Mexican citizens have had to redefine their roles and their relationships with the government. Parallel to this progression, CSOs were

working to become an autonomous and independent sector that could counteract and influence government policies. With the creation of the LFFAOSC, the CSOs role had a legal system that could support a vibrant organized civil society, wherein organizations could develop and thrive.

The LFFAOSC was not simply passed to recognize the work of CSOs, it also required the Federal government to foment the development of CSOs through the allocation and access to public resources. Between 2007 and 2008 the average Federal grant to one organization increased 32.25%. In 2008, the average size grant was of \$1,042,904.00 Mexican pesos or roughly \$89,000 US dollars and in 2007 the average grant was \$765,397.00 Mexican pesos or \$65, 500 US dollars (Gobernación, 2010).

Table 3 Grants Given by the Mexican Government to Civil Society Organizations in 2007 and 2008 (Gobernación, 2010).

Year	CSO w/ CLUNI	CSO that receive federal assistance	Number of economic grant	Number of non-economic grants	Economic Impact
2007	6,132	2,876	4,973	3,078	2,201,282.340
2008	10, 504	3,255	5,922	3,840	4,842,004,109
Difference	4,372	379	949	762	2,640,721,769
% Increase	71.30%	13.18%	19.08%	24.76%	119.96%

Taking these numbers into consideration along with the improved recognition, the increase of economic support, and the legal framework established by the LFFASOC, there was acknowledgement during the interviews that the LFFAOSC is a very important step in the process of development of CSOSs. However, there was also a sense of disappointment from the original

members who helped pass the LFFAOSC and current member of CSOs and government who felt disappointed about the actual impact of the LFFAOSC.

1. Implementation of the LFFAOSC

While the LFFAOSC created a legal framework for CSOs to develop and established additional requirements for increased accountability from organizations and the government, not everything the original authors of the LFFAOSC intended to overcome and accomplish has been achieved. This section will focus on how the LFFAOSC is applied by public administrators and how it is being realized in practice and implementation.

The purpose of the LFFAOSC and what it was set up to accomplish is very different from what organizations and the original authors of the LFFAOSC had in mind (Interview with Public Administrator, 2010). The implementation of the LFFAOSC led to some successes but has also been a challenge from an organizational and public administration standpoint. After the LFFAOSC was passed there was a period of readjustment and training for public administrators trying to comply with the new requirements. During this period there was tension between CSOs and the government and can be considered normal, since there needs to be a process of adaptation when bureaucratic institutions face “change”, which is not a specific issue pertinent to Mexico or this situation, but did have a negative effect. Public employees had little or no knowledge as to the role of CSOs and what they did, creating more tension between the CSOs and public employees (Tapia & Robles, 2006). In addition, there was a historical relationship between the government and CSOs, which was not always on the best of terms,

since the government had the role of regulating and controlling organizations and CSOs had the role of watchdog over government policies and actions. This tension did not go away when the LFFAOSC passed hindering the implementation of the LFFAOSC.

Regardless of the tension between the government and CSOs, to some extent the Law has halted the partiality from government agencies in granting public resources to CSOs. As has been stated, before the LFFAOSC, information regarding grants and public projects was rarely accessible, only organizations that had connections knew if there were public funds available and, additionally, even fewer CSOs knew the requirements and procedures necessary to access those resources (Castro, 2010; Cortés, 2010). Though the LFFAOSC has not completely stopped the preferential treatment to certain "linked in" organizations, such practices were never expected to be completely eradicated as each government agency is very different, and some maintain the traditional "clientalistas" relationship.

In addition, the LFFAOSC increased the obligations of both CSOs and of the government by establishing numerous rights and responsibilities, which were processes not in place preceding the Law's passage. One of the new requirements is a higher level of transparency from organizations and the government. For example, the Federal government has become more transparent in calling for public funds, since before that information was found only in the Official Newspaper or not at all. Currently all Federal grants and projects have to be published in that government agency's website and with INDESOL. At the same

time, organizations now have to report their expenditures to those government agencies providing grant funds (Castro, 2010). Now citizens, organizations and other government agencies can access information regarding public funds and information concerning the resources which have been allocated in supporting and encouraging the activities of CSOs. Information is also available to ensure organizations receiving public funds are enrolled in the Federal Registrar and to make sure resources are well spent and CSOs and the government are accountable.

Greater levels of accountability come with a burden to most CSOs because there are added requirements that entail funding and resources. As seen in the previous chapter, CSOs under the Law have several responsibilities that come at a very high initial cost for organizations to comply with the requirement to access public funds. The most pressing requirements are:

- CSOs have to register with the Federal Registrar but also need to acquire a CLUNI (Clave Única). Instead of having just one identifier number for all procedures, organizations need several, therefore multiplying the bureaucracy instead of simplifying the process.
- Organizations also have to change their bylaws to state that their assets from public funds will be donated to other organizations in case that the organization is dissolved. In many cases organizations had to hire accountants and notaries to legalize the bylaws and make sure the accounting procedures were compliant with the requirements. INDESOL worked with the notary association of Mexico to keep their fees to CSOs low, but in the end the cost

depends on which notary an organization is hiring for this process (Castro , 2010).

As shown by Table 4, most of the resources granted by the Federal government are not monetary grants but trainings, services and goods. CSOs, therefore view the process as having to use up resources to be recognized by LFFAOSC and in return maybe only be granted staff training or technological infrastructure. CSOs perceive a low percentage of economic support in comparison to non-monetary grants as not fomenting the development of organization because CSOs cannot still make their own decision of how those resources should be spent (Cortés, 2010).

Table 4 Types of Support the Mexican Government has Given to Organizations (López Casillas & Ruiz Palacios, 2007).

Total Federal Agencies	Economic	Goods	Training	Consultation	Services	Other	Total	% of economic support
17	1,732	11	181	73	1	6,267	7,706	22.47%

Additionally, funds are not guaranteed (Jiménez, 2010;Robledo, 2010) because organizations still need to compete, bid and apply for the government grants and resources.

2. Legal Framework

A legal framework is fundamental for the propagation of CSOs, as shown by a comparative study done by the *Center for Civil Society Studies* of John Hopkins University. This study “test[s] the hypothesis that a legal environment affects the development of the nonprofit sector” (Salamon & Toepler, 2000, p. 11)

by comparing the legal structures from 22 countries. The findings of the report were puzzling for the authors, as they discovered Mexico had a strong legal enabling environment, ranking higher than Australia, the UK, and Germany (Salamon & Toepler, 2000), but having one of the smallest sectors of the other 22 countries, based on economic size. The authors explain this incongruence by citing the fact that, like the LFAOSC, CSOs are relatively new in Mexico. The impact of legislation and incentives offered by a legal framework cannot yet be measured by quantifying the growth of the sector.

The authors also conclude “the legal framework is only one part of the larger social and institutional context that determines the proliferation, or non-proliferation of nonprofit organizations, and other political, economic or cultural factors may mitigate or even counter any direct effect of the law” (Salamon & Toepler, 2000, p. 2). Michael Layton (2009) has also presented a similar hypothesis. In order for civil society to develop and thrive there needs to be in place five fundamental conditions: an accountability system, institutional capacity, availability of resources and lastly legal and fiscal frameworks. According to Layton all of these conditions create an “enabling environment” that allows for civil society organizations to grow and be sustained.

Ana María Salazar (2007) proposes another explanation why the legal framework has not enabled the potential growth of CSOs. The goal of creating a legal framework that recognized the contributions of CSOs was inspired by reforms made to the fiscal law of 1989, which would have classified CSOs as “sociedades mercantiles” and therefore would have been obligated to pay income

taxes. Fiscal incentives were the main motivators for developing a legal structure for CSOs, and to this date the LFFAOSC is not in compliance due to the ineffectiveness or inability of the LFFAOSC to override previous laws and regulations generating a very convoluted legal framework. For example, in Article 5 the LFFAOSC lists all the types of activities on which organizations can focus. However, Article 95 of the Income Law only recognizes a fraction of those organizations. Therefore organizations not included in Article 95 of the Income Law are denied their rights established in the LFFAOSC and cannot access public funds, fiscal incentives, be “donatarias autorizadas” and/or participate in developing public policies (Salazar Sánchez, 2007, p. 75). The organizations that are not recognized in Article 95 of the Income Law are mainly organizations whose mission is to promote civic participation, human rights, protection of civil actions or any type of organization trying to open more spaces for political participation of society. Thus the legal framework in Mexico only is functional for certain organizations, organizations the government is willing to support.

Lastly, Ileri Ablanado has noted how the LFFAOSC has changed the way in which laws and legislation are applied and implemented into procedures and rules. The procedures to start a CSO have become extremely demanding and complex to navigate, and are barriers for CSOs. The complexity of the legal web of procedures, legislation and steps create an overwhelming environment for any type of organization. There is a discrepancy between the laws promulgated and the way they are applied in everyday activities (Ablanado Terrazas, p. 14). The LFFAOSC did create a legal framework for organizations; however as seen, it has

not had the impact expected on the development of CSOs in Mexico because in order to have vibrant sector a legal framework is only part of the equation.

3. Influence of the LFFAOSC on the democratic process

The relationship between Mexico's government and civil society organizations has significantly changed over the past 20 years, which raises two important questions. What has the LFFAOSC's role been in that process and can a more vibrant civil society create a more democratic nation?

If the actual influence and impact of the Law are simply overlooked, the fact that Mexico has a law such as the LFFAOSC shows that there is an interest from the government, and by extension the people, in supporting civil society organizations (Castro, 2010). The Law creates for organizations a normative approval from the government, as it recognizes CSOs as contributing to the public good. With the LFFAOSC, civil society organizations are officially part of Mexico's society and therefore have rights as well as responsibilities. However, when considering the actual influence and real impact, as has been revealed throughout this paper, the LFFAOSC has not been able to accomplish all of what initially was intended.

The role of civil society in Mexico is shifting to being the space where the responsibility of citizenship is favored in order to address important social, political and economical issues. Civil society is becoming a micro-space in where citizens are able to discuss, debate, find solutions and make decisions to social, political and economical issues. As citizens are able to participate and be responsible in conjunction with government regarding the future of democracy and

civil society in Mexico City, this participation is innate to the democratic process. The value and contributions of civil society is needed to create a more vibrant democratic government (Castro, 2010). However, we cannot consider Mexico's political system to be a participatory democracy. There is still work to be done in order for civil society to influence public policy, as there are spaces for dialogue and expression, which have not been allowed to have a real impact on actual votes and decisions (Jiménez, 2010). The LFFAOSC is considered a very good first step but one of many tools CSOs and governments will need to develop in order to foment a more vibrant civil society.

The LFFAOSC becomes part of Mexican history as part of the struggle to create more democratic and transparent institutions. It shows the recent interest and demand of citizens to be part of the decision making process, forcing the government to institutionalize even further the space for civic participation. The results and perception of the people in regards to the influence and impact of the law reflects that dialogue, committees and being heard is not enough anymore, the Mexican people are ready to make their own decisions, have real influence on the political process and to be responsible for their individual future and future of their nation.

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Appendix

Interview Questions

Demographic Questions:

Name:

Profession:

Name of Organization/Government Entity:

How long have you worked in this field?

If any, what was your role in the development of LFFAOSC?

General Questions regarding the relationship between CSOs and the Government:

How was the need determined for LFFAOSC? What were the reasons from a political/ organizational standpoint?

Who were the mayor players? And what was their specific role in the formulation of LFFAOSC?

What was this law created to do? (goals)

What were the intended outcomes?

How is LFFAOSC funded?

How has this law impacted democracy in Mexico?

If so, how has LFFAOSC helped the process of achieving a more democratic form of government in Mexico?

How would you characterize the relationship between government and CSOs before and after the passing LFFAOSC? (cooperation or competition)

Implementation Questions:

What is the procedure of requesting federal funds allocated to CSOs?

In government and organizational reports said that the procedures to register to become an organization and to request funds is a very long and convoluted process.

Have there been steps to improve the procedures of requesting funds and/or to register to be a CSO? And if they haven't, are there conversations between the government and organizations in order to address this issue?

In what ways has this law increase, decrease or maintain civic participation?

How is this law being implemented in other regions in Mexico?

Is the law regulating the activities of CSOs or CSOs itself?

Academic Questions:

How does this law define CSOs? Has it change in the last 6 years?